

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

CATHERINE WELLS

v.

RED BANNER TRANSPORTATION, LLC
AND SHAYNE WILLIAM STAYTON

CIVIL ACTION NO. 5:21-CV-360
DEMAND FOR JURY TRIAL

DEFENDANTS', RED BANNER TRANSPORTATION, LLC AND WILLIAM SHAYNE STAYTON, NOTICE OF REMOVAL

TO THE HONORABLE JUDGE OF THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS:

Pursuant to 28 U.S.C. §§ 1332 and 1441(a), Red Banner Transportation, LLC and William Shayne Stayton (“Defendants”) hereby remove this action to the United States District Court for the Western District of Texas from the 407th Judicial District Court of Bexar County, Texas, stating as follows:

1. This is an action of a civil nature in which the District Courts of the United States have been given original jurisdiction because the parties to the suit have complete diversity of citizenship. It arises under the laws of the United States as provided in 28 U.S.C. § 1332 because this action is between citizens of different states.
2. Under the provisions of 28 U.S.C. § 1441, et seq., the right exists to remove this cause from the District Court of Bexar County, Texas to the United States District Court for the Western District of Texas, San Antonio Division, which embraces the place where this action is pending. In her First Amended Original Petition, filed on March 1, 2021, Plaintiff, Catherine D. Wells (“Plaintiff”) alleges personal injuries arising out of a motor vehicle accident and seeks “monetary relief” exceeding \$1,000,000.00. Plaintiff outlined the following categories of damages in the past and future: (1) medical expenses; (2) pain and suffering; (3) mental anguish;

(4) impairment; (5) disfigurement; (7) property damages; and (8) loss of use. By Plaintiff's own Petition, the amount in controversy exceeds \$75,000. *See* 28 U.S.C. § 1446 (C)(2).

3. Under 28 U.S.C. § 1332, Defendants have a right to remove this case to federal court, because the parties have complete diversity of citizenship. Specifically, Plaintiffs' First Amended Original Petition alleges that Plaintiff is a citizen of Bexar County, Texas. Plaintiff's Petition further states that William Shayne Stayton (incorrectly named and identified as "Shayne William Stayton") is a resident of Arizona.¹ Red Banner Transportation, LLC denies it is a domestic for profit corporation, as alleged in Plaintiff's First Amended Original Petition, and would respectfully refer the Court to Exhibit "2", which is a true and correct copy of Defendants' Verified Original Answer to Plaintiff's First Amended Original Petition. As pled in Defendants' Verified Original Answer, and further stated herein, Red Banner Transportation, LLC is a limited liability company which was formed and organized under the laws of the state of Arkansas with its principal place of business in West Fork, Washington County, Arkansas.

4. This action was originally filed on January 26, 2021 by way of Plaintiff's Original Petition. However, Defendants, Red Banner Transportation, LLC and William Shayne Stayton, were not served with process until after Plaintiff's First Amended Original Petition was filed on March 1, 2021. Thereafter, Defendants were served with Citation and Plaintiff's First Amended Original Petition on March 11, 2021. Please refer to Exhibit "3", which are true and correct copies of the Citations served to Defendants and on file with the Bexar County District Clerk for the cause originally filed in Texas state court.

¹ William Shayne Stayton denies he is a resident of Arizona, as pled in paragraph 3 of Plaintiff's First Amended Original Petition. Please refer to a true and correct copy of Defendants' Verified Original Answer filed in Texas state court, attached hereto as Exhibit "2." Defendant would instead show and aver he is a resident of the state of Arkansas, as Plaintiff subsequently states in paragraph 3 of her First Amended Original Petition.

5. Prior to the date on which Defendants were required to file this Notice of Removal, an answer to Plaintiff's First Amended Original Petition was filed with the 407th Judicial District Court of Bexar County, Texas, pursuant to the Texas Rules of Civil Procedure. On March 31, 2021, Red Banner Transportation, LLC and Shayne William Stayton filed their Verified Original Answer in Texas state court.

6. Pursuant to the provisions of 28 U.S.C. § 1446, Defendants attach hereto, as Exhibit "1," and incorporate herein by reference, a copy of Plaintiff's First Amended Original Petition filed in the 407th Judicial District Court in Bexar County, Texas on March 1, 2021, bearing Cause No. 2021CI01556.

7. Pursuant to the provisions of 28 U.S.C. § 1446, Defendants attach hereto, as Exhibit "2," and incorporate herein by reference, a copy of Defendants' Verified Original Answer filed in this cause on March 31, 2021.

8. Pursuant to the provisions of 28 U.S.C. § 1446, Defendants attach hereto, as Exhibit "3," and incorporate herein by reference, a copy of the Citations served to Defendants and on file with the Bexar County District Clerk for the cause originally filed in Texas state court.

9. According to these premises, Defendants desire and are entitled to have this cause removed from the District Court of Bexar County, Texas, to the United States District Court for the Western District of Texas, San Antonio Division, such being the district where such suit is pending. Defendants, Red Banner Transportation, LLC and William Shayne Stayton consent to this removal.

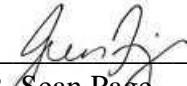
10. Notice of the filing of this Notice of Removal will be given to all parties as required by law.

11. A true copy of this Notice of Removal will be filed with the Clerk of the District Court of Bexar County, Texas, as provided by law.

WHEREFORE, PREMISES CONSIDERED, Defendants, Red Banner Transportation, LLC and William Shayne Stayton pray that this action be removed to this Court and this Court assume jurisdiction of this action and henceforth, this action be placed on the docket of this Court for further proceedings, the same as though this action had originally been instituted in this Court.

Respectfully submitted,

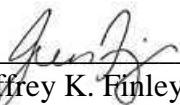
**THORNTON, BIECHLIN,
REYNOLDS & GUERRA, L.C.**
One International Centre
100 N.E. Loop 410, Suite 500
San Antonio, TX 78216-4741
Telephone: (210) 581-0289
Facsimile: (210) 525-0666
Email: spage@thorntonfirm.com
Email: jfinley@thorntonfirm.com

By: 
R. Sean Page
Federal ID No. 00784713
State Bar No. 00784713
Jeffrey K. Finley
Federal ID No. 24062484
State Bar No. 24062484

CERTIFICATE OF SERVICE

A true and correct copy of the above and foregoing instrument has been properly delivered pursuant to the Federal Rules of Civil Procedure, on the 9th day of April, 2021, to the following counsel of record:

Andrew D. Poulis
LAW OFFICE OF THOMAS J. HENRY
5711 University Heights Blvd., Ste. 101
San Antonio, Texas 78249


Jeffrey K. Finley